

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
229752003700

First named inventor: Stuart M. PITSON

Application No: 10/509,036

Art Unit: Not Yet Assigned

Filed: September 27, 2004

Examiner: Not Yet Assigned

Title: METHOD OF MODULATING CELLULAR ACTIVITY

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity – fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity – fee \$ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Response to Notice to File Missing Requirements (identify type of reply):
☐ has been filed previously on _____

☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

RECEIVED
17 JUL 2007
Legal Staff
International Division

3. Terminal disclaimer with disclaimer fee

☒

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

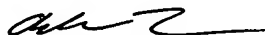
☐

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

July 11, 2007

Date

Adam Keser

Typed or printed name

54,217

Registration Number, if applicable

MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102

Address

(703) 760-7301

Telephone Number

Enclosures:

☒

Fee Payment

☒

Reply

☐

Terminal Disclaimer Form

☐

Additional sheets containing statements establishing unintentional delay

☐

Other: _____

Docket No.: 229752003700
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stuart PITSON et al.

Application No.: 10/509,036

Confirmation No.: 1337

Filed: September 27, 2004

Art Unit: Not Yet Assigned

For: METHOD OF MODULATING CELLULAR
ACTIVITY

Examiner: Not Yet Assigned

STATEMENT PURSUANT TO 37 CFR 1.821(f)

Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Missing Requirements mailed on March 8, 2005, the undersigned hereby states that the content of the attached paper copy of the sequence listing and the computer readable copy of the sequence listing submitted in accordance with 37 C.F.R. §§ 1.821-1.825, are identical. The submission includes no new matter.

Applicants request consideration and entry of the Sequence Listing paper copy and computer readable copy. Pursuant to 37 C.F.R. 1.77, please enter the paper copy of the Sequence Listing after the Abstract.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and


Application No.: 10/509,036

Docket No.: 229752003700

authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **229752003700**.

Dated: July 11, 2007

Respectfully submitted,

By 

Adam Keser
Registration No.: 54,217
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102
(703) 760-7301

SEQUENCE LISTING

<110> Medvet Science Pty Ltd

<120> A Method of Modulating Cellular Activity

<130> 12185280/TDO

<150> 2003900230

<151> 2003-01-21

<150> 2002951668

<151> 2002-09-19

<150> PS1448

<151> 2002-03-28

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<151> 2002-04-05

<150> PS1621

<151> 2002-04-08

<160> 14

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29

RECORDATION FORM COVER SHEET

PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

Stuart M. PITSON (11/30/2004), Pu XIA
(11/30/2004), Paul A. MORETTI (11/30/2004),
Julia R. ZEBOL (12/21/2004),

Additional name(s) of conveying party(ies) attached? ☒ Yes ☐ No

2. Name and address of receiving party(ies)

Name: Medvet Science Pty Ltd.

Internal Address: _____

Street Address: _____

38 Payneham Road
Stepney, South Australia 5069
Australia

City: _____

State: _____

Country: _____ Zip: _____

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance/Execution Date(s):

Execution Date(s): in parentheses after inventor name

☒ Assignment ☐ Merger ☐ Change of Name

☐ Security Agreement ☐ Joint Research Agreement

☐ Government Interest Assignment

☐ Executive Order 9424, Confirmatory License

☐ Other _____

4. Application or patent number(s):

A. Patent Application No.(s)

10/509,036

☐ This document is being filed together with a new application.

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address to whom correspondence concerning document should be mailed:

Name: Barry E. Bretschneider
MORRISON & FOERSTER LLP

Internal Address: Atty. Dkt.: 229752003700

Street Address: 1650 Tysons Blvd, Suite 300

City: McLean

State: VA Zip: 22102

Phone Number: (703) 760-7743

Fax Number: (703) 760-7777

Email Address: BBretschneider@mofo.com

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00

☐ Authorized to be charged by credit card

☒ Authorized to be charged to deposit account

☐ Enclosed

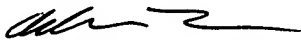
☐ None required (government interest not affecting title)

8. Payment Information

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number 03-1952
Authorized User Name Barry E. Bretschneider

9. Signature:



Signature

July 11, 2007

Date

Adam Keser - 54,217

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents:

6

RECORDATION FORM COVER SHEET
(continued)

Additional Conveying Party(ies)/Execution Date(s) (1. Continued):

Mathew A. VADAS (11/30/2004), and Brian W. WATTENBERG (12/6/2004)

Additional Assignees (2. Continued):

Assignee Name: _____

Internal Address: _____

Street Address: _____

City: _____ State: _____ Country: _____ Zip: _____

Assignee Name: _____

Internal Address: _____

Street Address: _____

City: _____ State: _____ Country: _____ Zip: _____

Assignee Name: _____

Internal Address: _____

Street Address: _____

City: _____ State: _____ Country: _____ Zip: _____

Additional Applications and/or Patents (4. Continued):

Additional Patent Application Numbers
4A. Continued:Additional Patent Numbers
4B. Continued:

Additional numbers attached?

☐

Yes

☐

No

US
PATENT
Attorney Docket No. 22975-20037.00

ASSIGNMENT

WHEREAS, I/WE

Stuart M. PITSON, an Australian citizen of 1B Threlfall Avenue, Norwood, South Australia 5067, Australia;

Pu XIA, an Australian citizen of 97 Shakespeare Avenue, Magill, South Australia 5072, Australia;

Paul A. MORETTI, an Australian citizen of 3 Railway Terrace South, Goodwood, South Australia 5034, Australia;

Julia R. VERWEY, an Australian citizen of 27 Highfield Drive, Hillbank, South Australia 5112, Australia;

Mathew A. VADAS, an Australian citizen of 8 Branch Road, Stirling, South Australia 5152, Australia;

Brian W. WATTENBERG, an Australian citizen of Brown Cancer Centre, 529 S. Jackson Street, Louisville, Kentucky 40202, United States

hereinafter referred to as Assignor (collectively if more than one inventor is listed above), have invented certain new and useful improvements in **A method of modulating cellular activity**

the specification of which:

- (a) ☐ was executed on even date herewith;
- (b) ☐ was filed on _____ as ☐ Application No. _____ or ☐ Express Mail No., as Application No. not yet known _____ and was amended on _____ (if applicable); or
- (c) ☒ was described and claimed in PCT International Application PCT/AU03/00388 filed on 28 March 2003 and as amended under PCT Article 19 on _____ (if any) and/or under PCT Article 34 on _____ (if any).

AND WHEREAS,

38 Payneham Road, Stepney, South Australia 5069,
Medvet Science Pty Ltd, of 20 Dalglish Street, Thebarton, South Australia 5031, Australia - Australia

(hereinafter referred to as Assignee) desires to acquire the entire rights, title, and interest in and to the said improvements with respect to the United States of America, its territories and possessions.

NOW, THEREFOR, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby acknowledges that it has sold, assigned, transferred and set over, and by these presents does hereby sell, assign, transfer and set over, unto Assignee, its successors, legal representatives and assigns, the entire right, title, and interest in the United States of America, and its territories and possessions in, to and under said improvements, and any Patent Applications in the United States of America and all divisions, renewals and continuations thereof, and all Patents of the United States of America which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions; and Assignor hereby authorizes and requests the Commissioner of Patents of the United States of America to issue all Patents for said improvements to Assignee, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND ASSIGNOR HEREBY covenants and agrees that it will communicate to Assignee, its successors, legal representatives and assigns, any facts known to it respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid Assignee, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in the United States of America.

IN TESTIMONY WHEREOF, Assignor intending to be legally bound has hereunto affixed its signature.

X This 30th day of November, 2004

X Therese E. Gagnier
Witness

X Stuart M. Pitson
Signature of Stuart M. PITSON

US
PATENT

Attorney Docket No. 22975-20037.00

X This 30 day of November, 2004Signature of PAKIA

Witness

This 30th day of NOVEMBER, 2004

Signature of

Paul A. MORETTI

Witness

X This _____ day of _____, 2004

Signature of

Julia R. VERWEY

Witness

X This 30th day of NOVEMBER, 2004

Signature of

Mathew A. VADAS

Witness

13 Dec 2004 1:35PM

MEDVET IP OFFICE

00 8222 3411

P.3

US
PATENT
Attorney Docket No. 22975-20037.00X This 30 day of November, 2004X [Signature]
Signature of PAKIAX [Signature]
WitnessX This 30th day of NOVEMBER, 2004X [Signature]
Signature of Paul A. MORETTIX N. Allen
WitnessX This 21st day of December, 2004X Julia Zebol
Signature of Julia R. ZEBOL
ZEBOL 21.12.04X [Signature]
WitnessX This 30th day of NOVEMBER, 2004X [Signature]
Signature of Matthew A. VADANX d. Mitochke
Witness

1 Dec 2004 7:55AM MEDVET IP OFF DE

08 0222 3411

P. 4

US
PATENT
Attorney Docket No. 22975-20037.00

* This 6 day of December, 2004

* Nancy J. Roseberry
Witness

Brian W. Watterberg
Signature of Brian W. WATTERBERG

This _____ day of _____, 2004

Witness

Signature of

This _____ day of _____, 2004

Witness

Signature of

This _____ day of _____, 2004

Witness

Signature of

IAP12 Rec'd PCT/PTO 11 JUL 2007

PTO/SB/21 (09-06)

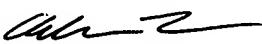
Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/509,036
	Filing Date	September 27, 2004
	First Named Inventor	Stuart M. PITSON
	Art Unit	Not Yet Assigned
	Examiner Name	Not Yet Assigned
Total Number of Pages in This Submission	Attorney Docket Number	229752003700

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Post Card Copy of Notification of Missing Requirements dated 3/8/05 Executed Declaration
Remarks Statement Pursuant to 37 CFR 1.821(f) Paper Copy of Sequence Listing Computer-Readable Disk of Sequence Listing Recordation Form cover sheet Executed Assignment Response to Decision		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP		
Signature			
Printed name	Adam Keser		
Date	July 11, 2007	Reg. No.	54,217

 RECEIVED
 17 JUL 2007
 Legal Staff
 International Division

Docket No.: 229752003700
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stuart M. PITSON et al.

Application No.: 10/509,036

Confirmation No.: N/A

Filed: September 27, 2004

Art Unit: Not Yet Assigned

For: METHOD OF MODULATING CELLULAR
ACTIVITY

Examiner: Not Yet Assigned

**RESPONSE TO DECISION FOR PETITION FOR REVIVAL OF AN APPLICATION
ABANDONED UNINTENTIONALLY**


MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision dated May 11, 2007, Applicants resubmit the Petition for revival and related papers for your approval. Applicants have attached an acceptable Declaration and a computer readable form of the Sequence Listing in the required text.

Dated: July 11, 2007

Respectfully submitted,

By 
Adam Keser
Registration No.: 54,217
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102
(703) 760-7301

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

<p><i>Effective on 12/08/2004.</i> <i>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</i></p> <h2 style="text-align: center;">FEE TRANSMITTAL</h2> <h3 style="text-align: center;">For FY 2007</h3>		<p>Complete if Known</p>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/509,036
		Filing Date	September 27, 2004
		First Named Inventor	Stuart M. PITSON
		Examiner Name	Not Yet Assigned
		Art Unit	Not Yet Assigned
TOTAL AMOUNT OF PAYMENT		(\$)	1,500.00
		Attorney Docket No.	229752003700

METHOD OF PAYMENT (check all that apply)

☐ Check
 ☐ Credit Card
 ☐ Money Order
 ☐ None
 ☐ Other (please identify): _____

☒ Deposit Account
 Deposit Account Number: 03-1952
 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below
 ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims _____ - 20 = _____ x _____ = _____ HP = highest number of total claims paid for, if greater than 20.	Extra Claims _____ - 3 = _____ x _____ = _____ HP = highest number of independent claims paid for, if greater than 3.	Fee (\$) _____	Fee Paid (\$) _____	Multiple Dependent Claims Fee (\$) _____	Fee Paid (\$) _____
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3. APPLICATION SIZE FEE

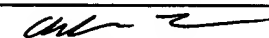
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50	_____ (round up to a whole number) x _____	_____	_____

4. OTHER FEE(S)

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): 1453 Petition to revive unintentionally abandoned ...	1,500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	54,217	Telephone	(703) 760-7301
Name (Print/Type)	Adam Keser	Date	July 11, 2007		

SCORE

CRF Problem Report

SCORE experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10/509,030
Filing Date: 7/11/2007
Date Processed by SCORE: 8/16/2007

Contact: Electronic Business Center: Telephone: 866-217-9197

Nature of CRF Problem:

- ☐ (circle one) Damaged or Unreadable
- ☐ Blank (no files on CRF)
- ☐ Empty file (filename present, but no bytes in file)
- ☐ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application)
- ☒ Not saved in ASCII text .DOC
- ☐ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
- ☐ Did not contain a Sequence Listing.
- ☐ Other:

**PLEASE USE THE CHECKER VERSION 4.4.0 PROGRAM TO REDUCE ERRORS.
SEE BELOW FOR ADDRESS:**

<http://www.uspto.gov/web/offices/pac/checker/chkrnote.htm>

1. EFS-Bio (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>> , EFS Submission User Manual - ePAVE)
2. U.S. Postal Service: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):**
U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

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Adam Keser
MORRISON & FOERSTER, LLP
1650 Tysons Boulevard
Suite 400
McLean VA 22102

In re Application of:	:	
PITSON, Stuart.	:	
Application No.: 10/509,036	:	DECISION
PCT Application No.: PCT/AU2003/00388	:	
Int. Filing Date: 28 March 2003	:	UNDER
Priority Date: 28 March 2002	:	
Atty Docket No.: 229752003700	:	37 CFR 1.137(b)
For: A METHOD OF MODULATING CELLULAR ACTIVITY	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)" filed 16 April 2007, which has been treated as a petition under 37 C.F.R. 1.137(b).

BACKGROUND

On 28 March 2003, applicants filed international application PCT/AU2003/00388, which designated the U.S. and claimed priority date of 28 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 September 2004.

On 27 September 2004, applicants filed national papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basis national fee.

On 08 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a oath or declaration in compliance with 37 CFR 1.497 and a copy of the "Sequence Listing" in computer readable form required by 37 CFR 1.821(e) must be filed.

On 17 July 2006, international application PCT/AU2003/00388 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 16 April 2007, applicants filed, *inter alia*, a declaration, a copy of the "Sequence Listing" in computer readable form, and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding items (2), (3) and (4), the applicant has provided the petition fee and the proper statement. In this application, no terminal disclaimer is required.

Regarding item (1), applicant has provided a declaration that appears to be a composite declaration created from the combination of separately executed declarations. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Further, the applicant has provided a computer readable form (CFR) of the "Sequence Listing" that is not saved in the required ASCII text. Accordingly, applicant has not submitted the required reply in response to the Notification of Missing Requirements.

CONCLUSION

For the reasons noted above, petition to revive under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this action is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bena Miller
Detailer PCT Legal Examiner
Office of PCT Legal Administration



Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Enclosure: CFR Problem Report



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U.S. APPLICATION NUMBER NO.

✓ 10/509,036

FIRST NAMED APPLICANT

Stuart M Pitson

ATTY. DOCKET NO.

✓ 229752003700

INTERNATIONAL APPLICATION NO.

PCT/AU03/00388

I.A. FILING DATE

03/28/2003

PRIORITY DATE

03/28/2002

25227

 MORRISON & FOERSTER LLP
 1650 TYSONS BOULEVARD
 SUITE 300
 MCLEAN, VA 22102

CONFIRMATION NO. 1337

371 FORMALITIES LETTER



OC000000015374062

Date Mailed: 03/08/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/27/2004
- Copy of the International Search Report filed on 09/27/2004
- Copy of IPE Report filed on 09/27/2004
- Biochemical Sequence Listing filed on 09/27/2004
- Request for Immediate Examination filed on 09/27/2004
- U.S. Basic National Fees filed on 09/27/2004
- Priority Documents filed on 09/27/2004

DOCKETED

REMINDER

DUE DATE:

FINAL DUE DATE:

 ✓ Miss Reg Due
 4/8/05
 5/8/05
 10/8/05

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- \$130 Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) is required.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Late oath or declaration Surcharge.

The following items **MUST** be furnished within the period set forth below:

ms
7/27/06

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
 - A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e) and PCT Rule 13ter.1(a)(ii).
 - APPLICANT MUST PROVIDE:
 - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
 - A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
 - For Rules Interpretation, call (703) 308-4216
 - To Purchase PatentIn Software, call (703) 306-2600
 - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/509,036	PCT/AU03/00388	229752003700

PATENT
Docket No.22975-20037.00

DECLARATION FOR UTILITY PATENT APPLICATION

AS BELOW-NAMED INVENTORS, WE HEREBY DECLARE THAT:

Our residences, post office addresses, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: **A METHOD OF MODULATING CELLULAR ACTIVITY**, the specification of which is attached hereto unless the following box is checked:

☒ [X] was filed on 28 March 2003 as United States Application Serial No. and as PCT International Application No. PCT/AU03/00388

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
PS1448/02	Australia	28 March 2002	yes
PS1538/02	Australia	5 April 2002	yes
PS1621/02	Australia	8 April 2002	yes
2002951668	Australia	19 September 2002	yes
2003900230	Australia	21 January 2003	yes

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date
*	

We hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, we acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

Application Serial No.	Filing Date	Status
PCT/AU03/00388	28 March 2003	<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

We hereby appoint the following attorneys and agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Lisa A. Amii (Reg No. 48,199)
 Mehran Arjomand (Reg No. 48,231)
 Sanjay S. Bagade (Reg No. 42,280)
 Shantanu Basu (Reg No. 43,318)
 Vincent J. Belusko (Reg No. 30,820)
 Kimberly A. Bolin (Reg No. 44,546)
 Tyler S. Brown (Reg No. 36,465)
 A. Randall Camacho (Reg No. 46,595)
 Robert K. Cerpa (Reg No. 39,933)
 Alex Chartove (Reg No. 31,942)
 Thomas E. Ciotti (Reg No. 21,013)
 Matthew M. D'Amore (Reg No. 42,457)
 Peter Davis (Reg No. 36,119)
 Karen B. Dow (Reg No. 29,684)
 Carolyn A. Favorito (Reg No. 39,183)
 Hector Gallegos (Reg No. 40,614)
 Deborah S. Gladstein (Reg No. 43,636)
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 Johnney U. Han (Reg No. 45,565)
 Alan S. Hodes (Reg No. 38,185)
 Kevan P. Howard (Reg No. P48,999)
 Jill A. Jacobson (Reg No. 40,030)
 Madeline I. Johnston (Reg No. 36,174)
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 Cameron A. King (Reg No. 41,897)
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Randolph Ted Apple (Reg No. 36,429)
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 David Devernoe (Reg No. 50,128)
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 David L. Fehrman (Reg No. 28,600)
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 Douglas G. Hodder (Reg No. 41,840)
 Charles D. Holland (Reg No. 35,196)
 Peter Hsieh (Reg No. 44,780)
 Wayne Jaeschke, Jr. (Reg No. 38,503)
 Parisa Jorjani (Reg No. 46,813)
 Richard C. Kim (Reg No. 40,046)
 Lawrence B. Kong (Reg No. P49,043)
 Glenn Kubota (Reg No. 44,197)
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 Stanley H. Thompson (Reg No. 45,160)
 Brenda J. Wallach (Reg No. 45,193)
 E. Thomas Wheelock (Reg No. 28,825)
 Eric Witt (Reg No. 44,408)
 David T. Yang (Reg No. 44,415)
 George C. Yu (Reg No. 44,418)

Please direct all communications to:

1650 Tysons Boulevard, Suite 300
 McLean, Virginia 22102

Please direct all telephone calls to **Barry E. Bretschneider** at (703) 760-7743

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

* 30/11/04
 Date

Name: Stuart M. PITSON
 Residence: 1B Threlfall Avenue, Norwood, South Australia 5067, Australia
 Citizenship: Australia
 Post Office Address: "same as above"

* 12/12/04
 Date

Name: Pu XIA
 Residence: 97 Shakespeare Avenue, Magill, South Australia 5072, Australia
 Citizenship: Australia
 Post Office Address: "same as above"

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 Date

Name: Paul A. MORETTI
 Residence: 3 Railway Terrace South, Goodwood, South Australia 5034, Australia
 Citizenship: Australia
 Post Office Address: "same as above"

x

Date

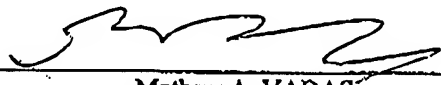
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Name: Julia R. VERWEY
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30/11/04

Date

x



Name: Mathew A. VADAS
Residence: 8 Branch Road, Stirling, South Australia 5152, Australia
Citizenship: Australia
Post Office Address:

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Date

x

Name: Brian W. WATTENBERG
Residence: Brown Cancer Centre, 529 S. Jackson Street, Louisville,
Kentucky 40202, United States
Citizenship: Australia
Post Office Address:

Date

Name:
Residence:
Citizenship:
Post Office Address:

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P. 8

PATENT
Docket No. 22975-20037.00**DECLARATION FOR UTILITY PATENT APPLICATION****AS BELOW-NAMED INVENTORS, WE HEREBY DECLARE THAT:**

Our residences, post office addresses, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: **A METHOD OF MODULATING CELLULAR ACTIVITY**, the specification of which is attached hereto unless the following box is checked:

- ☒ (X) was filed on 28 March 2003 as United States Application Serial No. and as PCT International Application No. PCT/AU03/00388

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

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PS1621/02	Australia	8 April 2002	yes
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2003900230	Australia	21 January 2003	yes

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

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P. 8

Application No.	
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PCT/AU03/00388			28 March 2003	<input type="checkbox"/> Patented	<input type="checkbox"/> Pending	<input type="checkbox"/> Abandoned
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p.10

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 McLean, Virginia 22102

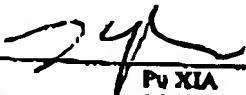
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* 12/11/04
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 Post Office Address: "same as above"

Dec 2004 1:36PM MEDVET IP OFFICE

08 0222 3411

p. 11

21.12.04

Date

X

Julia Zebol

Name:

Julia R. VERWEY ZEBOL 21.12.04

Residence:

27 Highfield Drive, Hillbank, South Australia 5119, Australia

Citizenship:

Australia 16/16 Rocky Rd, South Yarra, Victoria, 3141.

Post Office Address: "Same as above"

21.12.04 AUSTRALIA

30/11/04

Date

X

Name:

Mathew A. VADAS

Residence:

8 Branch Road, Stirling, South Australia 5152, Australia

Citizenship:

Australia

Post Office Address:

Date

X

Name:

Brian W. WATTENBERG

Residence:

Brown Cancer Centre, 529 S. Jackson Street, Louisville,

Kentucky 40202, United States

Citizenship:

Australia

Post Office Address:

Date

Name:

Residence:

Citizenship:

Post Office Address:

01 Dec 2004 7:58AM MEDVET IP OFF DE

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P. 8

PATENT
Docket No.22975-20037.00

DECLARATION FOR UTILITY PATENT APPLICATION

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☒ was filed on 28 March 2003 : United States Application Serial No. and as PCT International App cation No. PCT/AU03/00383

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01 Dec 2004 8:00AM MEDVET IP OFF DE

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p.9

Application Serial No.	Filing Date
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We hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), insofar as the subject matter of each of the claims of this application is not disclosed in the prior art, in the manner provided by the first paragraph of 35 U.S.C. § 112, we acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 between the filing date of the prior application and the national or PCT

J.S.C. § 120 of any United States application(s), in designating the United States, listed below and, in the manner provided by the first paragraph of 35 U.S.C. § 112, we acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 between the filing date of the prior application and the national or PCT

Application Serial No.	Filing Date	Status
PCT/AU03/00388	28 March 2003	<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

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We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


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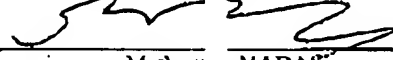
Docket No. 22975-20037.00
 Application No.

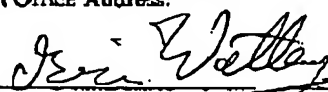
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